

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Christopher Chase

v.

Case No. 10-cv-239-PB

United States of America

O R D E R

Defendant's motion for relief under 28 U.S.C. § 2255 is denied for the reasons set forth in the government's response. More specifically, the defendant is not entitled to relief because he was not prejudiced by counsel's failure to raise the sentencing issue on which his § 2255 is based. First, defendant's total adjusted offense level was based on the money laundering conspiracy rather than the drug conspiracy. Second, in any event, the court correctly calculated the defendant's adjusted offense level for the drug conspiracy because a sufficient amount of solid steroids was seized on August 19, 2006 to warrant the adjusted offense level found by the court. Finally, the court would have imposed the same sentence even if the defendant had proved at sentencing that the unit calculation done by the probation officer mistakenly treated steroids in

liquid form as if they were solids. Because the defendant cannot establish that he was prejudiced by counsel's alleged error, he is not entitled to relief. See Strickland v. Washington, 466 U.S. 668, 597 (1984). The motion to vacate sentence (Doc. No. 1) is denied.

Pursuant to Rule 11 of the Rules Governing Section 2254 and 2255 cases and First Cir. LR 22.0, the court is required to either issue or deny a certificate of appealability when it enters a final order adverse to the applicant. 28 U.S.C. § 2253(c)(2). For the foregoing reasons, the petitioner has failed to make a substantial showing of the denial of a constitutional right. As a result, the court declines to issue a certificate of appealability in this case.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

August 18, 2010

cc: Christopher Chase, pro se
Aixa Maldonado-Quinones, AUSA
United States Probation